IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 4552 of 1998

Between:

1. The Depot Manager, APSRTC,

Karimnagar.

2. The Regional Manager, APSRTC,

Karimnagar.

..... PETITIONERS

AND

1. Sri D.L.Narsaiah, E.76681

Conductor, Karimnagar-I Depot,

Karimnagar

2. The Labour Court, Godavarikhani

rep. By Presiding Officer.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction particularly in the nature of a writ of certiorari calling for the records pertaining to the award of the Labour Court-cum-Industrial Tribunal in ID No.30 of 1994, dtd.14-03-1997 and published on 06-06-1997 and quash the same as being illegal, arbitrary and unjust.

Counsel for the Petitioners: MRS.G.JYOTHI KIRAN

Counsel for the Respondent NO.1: MR.K.VASUDEVA REDDY

The Court made the following:

O R D E R:

This writ petition is filed by the Depot Manager, A.P.S.R.T.C, Bus Depot, Karimnagar, being aggrieved by the award passed by the Industrial Tribunal-cum-Labour Court, Godavarikhani, in I.D.No.30 of 1994, dated 14-03-1997, wherein the punishment of reduction of pay by two incremental stages for a period of three years with cumulative effect was held to be not justified and the same was set aside.

The first respondent-workman while he was conducting bus No.6612 proceeding from Kamareddy to Bhavanipet, on
08-01-1996, at about 18.30 hours, a check was exercised by the officials of the Corporation and found cash and ticket irregularities. On the basis of the said inspection report, disciplinary proceedings were initiated after following due process of law and after conducting a detailed enquiry into the matter, the Depot Manager found the first respondent-workman guilty of the charges and accordingly removed him from service.

The appeal filed by the first respondent-workman was also rejected. Thereafter, the review petition filed before the management was considered and a lenient view was taken and accordingly, the

workman was directed to be re-instated into service, but the lesser punishment of stoppage of two increments for three years with cumulative effect was imposed. Aggrieved by the same, the first respondent-workman raised industrial dispute and the matter was referred to the Government, which in turn referred the matter to the Industrial Tribunal-cum-Labour Court, at Godavarikhani for adjudication as to:

I. Whether the Regional Manager, A.P.S.R.T.C, Karimnagar is justified in reducing the pay of Sri D.L.Narsaiah, E-76681, Conductor, by two incremental stages for a period of three years with cumulative effect?

II. If not, to what relief the workman is entitled to?

The Tribunal, after considering the charges and the evidence on record, came to the conclusion that the management was not justified in imposing the punishment of reduction of pay by two incremental stages for a period of three years with cumulative effect and that the penalty of “Censure” would be proportionate to charges levelled against the workman. Further, the Tribunal, while holding that the reduction of incremental stages was not justified, ordered reinstatement of workman into service with continuity of service, back wages, incremental benefits and also restoring the security deposit collected for the second time.

Aggrieved by the impugned award, the management filed the present writ petition. The workman himself admitted that he moved the bus due to pressure from the passengers, but at the same time he also admitted that he did not state this fact at the time of spot inspection conducted by the officials. Further, the workman had collected Rs.3/-, but did not issue tickets though the bus moved to the third stage i.e., from stage No.23 to 21. The Tribunal found that there

were 112 passengers travelling in the bus at the time of inspection and the workman was in the process of issuing tickets. Therefore, the Tribunal held that the charge was proved, but since the amount involved was small and the workman was in the process of issuing tickets, the Tribunal was of the view that imposing of the punishment of withholding two increments with cumulative effect was harsh and was not commensurate with the gravity of the charges proved.

The learned counsel for the management contends that the Tribunal ought not to have interfered with the punishment imposed by the management as it had taken a lenient view of the matter. The act of moving the bus from the stage without completing the issue of tickets itself was misconduct and this was not the first case where the workman involved in such misconduct. The workman himself admitted in his evidence that previously he was punished twice for the similar misconduct of cash and ticket irregularities.

Having regard to the charges proved and the amount involved was meagre and the fact that the workman was involved in similar misconduct, I am of the opinion that the Tribunal was not right in holding that the punishment imposed by the management was disproportionate to that of the misconduct proved. In fact, the management itself had taken a lenient view of the matter though the workman was involved twice in such misconduct. The workman admitted that he moved the bus due to pressure from passengers. But he has not stated as to this fact in his explanation at the earliest point of time. Even assuming that there was some pressure from passengers, he was not supposed to move the bus without completing the issue of the tickets. In the instant case, the charge was proved, but the punishment imposed by the management was found to be disproportionate to that of the misconduct proved against the workman, by the Tribunal. I am of the considered opinion that the Tribunal ought not to have interfered with the punishment imposed while exercising its powers under Section 11(A) of the Industrial Dispute Act. The Tribunal ventured to exercise its powers as available under Section 11(A) of the Industrial Disputes Act. This is

not a case of dismissal or discharge from service. This is a case of reduction in incremental stages of the workman. Therefore, the finding that the stoppage of increments was disproportionate to that of the mis-conduct was uncalled for. The award passed by the Tribunal is liable to be set aside as it is bereft of reasons. However, having regard to the facts and circumstances, it would be appropriate for the management to impose the punishment of reduction of pay by two incremental stages for a period of three years 'without cumulative effect' instead of 'with cumulative effect'.

With the above modifications, the award passed by the Tribunal is confirmed. Accordingly, the writ petition is disposed of. No order as to costs.

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28-07-2004.

Lrkm.

To

1. The Presiding Officer, Labour Court, Godavarikhani

2. 2CD copies

3. The Depot Manager, APSRTC, Karimnagar.

4. The Regional Manager, APSRTC, Karimnagar.